

[Published in the Gazette of India, Extraordinary, Part 1, Section 1 dated 31st March, 2008]

MINISTRY OF POWER

RESOLUTION

New Delhi, the 31st March, 2008.

F.No.23/2/2005-R&R(Vol.IV) – In this Ministry's Resolution F.No. 23/2/2005-R&R(Vol.III) dated 6th January, 2006 published in the Gazette of India (Extraordinary), Part I, Section 1, notifying the Tariff Policy under the provisions of Section 3 of the Electricity Act, 2003, the following amendment is hereby made:

The following proviso is added at the end of Para 5.1 of the Tariff Policy:

“Provided that a developer, of a hydroelectric project, not being a State controlled/ owned company, would have the option of getting the tariff determined by the appropriate Commission on the basis of performance based cost of service regulations if the following conditions are fulfilled:

- a) The appropriate Commission is satisfied that the project site has been allotted to the developer by the concerned State Government after following a transparent two stage process. The first stage should be for prequalification on the basis of criteria such as financial strength as measured by networth, past experience of developing infrastructure projects of similar size, past track record of developing projects on time and within estimated costs, turnover and ability to meet performance guarantee etc. In the second stage, bids are to be called on the basis of only one single quantifiable parameter, such as, free power in excess of 13%, equity participation offered to the State Government, or upfront payment etc.
- b) Projects of more than 100 MW design capacity for which sites have been awarded earlier by following a transparent process and on the basis of predetermined set of criteria would also be covered in this dispensation.

c) Concurrence of CEA (if required under Section 8 of the Act), financial closure, award of work and long term PPA (of more than 35 Years) of the capacity specified in (d) below with distribution licensees are completed by 31.12.2010.

d) Long term PPA would be at least for 60% of the total saleable design energy. However, this figure of 60% would get enhanced by 5% for delay of every six months in commissioning of the last unit of the project against the scheduled date approved by the Appropriate Commission before commencement of the construction. The time period for commissioning of all the units of the project shall be four years from the date of approval of the commissioning schedule by the Appropriate Commission. However, the Appropriate Commission may, after recording reasons in writing, fix longer time period for large storage projects and run-off-the river projects of more than 500 MW capacity. Adherence to the agreed timelines to achieve the fixed commissioning schedule shall be verified through independent third party verification.

e) Award of contracts for supply of equipment and construction of the project, either through a turnkey or through well defined packages, are done on the basis of international competitive bidding.

In cases, where the conditions mentioned above at (a) to (e) are fulfilled, the Appropriate Commission shall determine tariff ensuring the following:

(i) Any expenditure incurred or committed to be incurred by the project developer for getting project site allotted (except free power up to 13%) would neither be included in the project cost, nor any such expenditure shall be passed through tariff.

(ii) The project cost shall include the

- cost of the approved R&R plan of the Project which shall be in conformity with the following:
 - (a) the National Rehabilitation & Resettlement Policy currently in force;
 - (b) the R&R package as enclosed at appendix; and

- the cost of project developers' 10% contribution towards RGGVY project in the affected area as per the project report sanctioned by the Ministry of Power.

(iii) Annual fixed charges shall be taken pro-rate to the saleable design energy tied up on the basis of long term PPAs with respect to total saleable design energy. The total saleable design energy shall be arrived at by deducting the following from the design energy at the bus bar:

- a) 13% of free power (12% for the host Government and 1% for contribution towards Local Area Development Fund as constituted by the State Government). This 12% free power may be suitably staggered as decided by the State Government
- b) Energy corresponding to 100 units of electricity to be provided free of cost every month to every Project Affected Family notified by the State Government to be offered through the concerned distribution licensee in the designated resettlement area/ projects area for a period of ten years from the date of commissioning”.

I.C.P. KESHARI, Jt. Secretary.

APPENDIX

SALIENT FEATURES OF THE APPROVED R&R PROVISIONS FOR HYDRO POWER PROJECTS

1. SCOPE OF COVERAGE

The following provisions shall be applicable even if one family is affected by the development of a Hydro Power Project.

2. DEFINITION OF PROJECT AFFECTED FAMILIES (PAFs)

A Project Affected Family (PAF) shall mean a family whose place of residence or other property, or source of livelihood has been affected by the development of a hydro project and who have been residing in the affected zone for two years preceding the date of declaration of notification under Section-4 of the LA Act. The affected family would also include **squatters**.

3. DEFINITION OF AGRICULTURAL LABOURER

A person normally residing in the affected zone for two years preceding the date of declaration of the affected zone and earns his/her livelihood principally by manual labour on agricultural land.

4. DEFINITION OF NON AGRICULTURAL LABOURER

A person normally residing in the affected zone for two years preceding the date of declaration of the affected zone and who does not hold any land in the affected zone but earns his/ her livelihood principally by manual labour or as rural artisan or a service provider to the community.

5. DEFINITION OF SQUATTERS

A family occupying Government land in the affected zone without a legal title, at least for 5 years prior to the date of declaration of notification under Section-4 of L.A. Act.

6. REHABILITATION / RESETTLEMENT COLONIES

This policy aims to provide built up houses to Project Affected Families (PAFs) who get displaced due to the development of hydro projects to the extent possible. However, wherever opted for, liberal House Construction Allowance would be given in lieu.

7. TRAINING AND CAPACITY BUILDING

This policy also emphasizes the need to provide training to the Project Affected Families as well as to the local population for a sustained livelihood. Special training programmes from ITIs aimed at providing the required skills to the local population would be undertaken by the Project developers at least six months prior to commencement of construction. This is expected to boost the employability of the PAFs and other people residing in the vicinity of the project.

8. ADDITIONAL PROVISIONS

This policy envisages additional provisions for Project Affected Families such as:

- scholarships for meritorious students,
- extension of medical facilities,
- marriage grants,
- subsistence grants,
- support for income generation schemes for cooperative and self help groups,
- seed, pesticides and fertilizer subsidies, and irrigation support.

Besides the additional provisions mentioned above, the normally applicable provisions of the National Policy on Rehabilitation and resettlement, currently in force, would be applicable.
